

Apr 01, 2022

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10 UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF WASHINGTON
12

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 VINCENT NICHOLAS PETRUSHKIN,

17 Defendant.
18

2:21-CR-00164-SMJ-2

PLEA AGREEMENT

19 Plaintiff United States of America, by and through Vanessa R. Waldref, United
20 States Attorney for the Eastern District of Washington, and Caitlin Baunsgard,
21 Assistant United States Attorney for the Eastern District of Washington, and
22 Defendant, VINCENT NICHOLAS PETRUSHKIN, and Defendant's counsel, Walter
23 Ayers, agree to the following Plea Agreement:

24 1. Guilty Plea and Maximum Statutory Penalties:

25 Defendant, VINCENT NICHOLAS PETRUSHKIN, agrees to enter a plea of
26 guilty to Count 4 the Indictment filed on November 16, 2021, charging Defendant
27 with Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1),
28 924(a)(2).

Defendant understands that this charge is a Class C felony charge and also
understands that the maximum statutory penalty for this offense is not more than 10

PLEA AGREEMENT - 1

1 years of incarceration; a fine not to exceed \$250,000; a term of supervised release of
2 not more than 3 years; and a \$100 special penalty assessment.

3 Defendant understands that a violation of a condition of supervised release
4 carries an additional penalty of re-imprisonment for all or part of the term of
5 supervised release, pursuant to 18 U.S.C. § 3583(e)(3), without credit for time
6 previously served on post-release supervision.

7 2. The Court is Not a Party to the Plea Agreement:

8 The Court is not a party to this Plea Agreement and may accept or reject this
9 Plea Agreement. Sentencing is a matter that is solely within the discretion of the
10 Court. Defendant understands that the Court is under no obligation to accept any
11 recommendations made by the United States and/or by Defendant; that the Court will
12 obtain an independent report and sentencing recommendation from the U.S. Probation
13 Office; and that the Court may, in its discretion, impose any sentence it deems
14 appropriate up to the statutory maximums stated in this Plea Agreement.

15 Defendant acknowledges that no promises of any type have been made to
16 Defendant with respect to the sentence the Court will impose in this matter.
17 Defendant understands that the Court is required to consider the applicable sentencing
18 guideline range but may depart upward or downward in the exercise of its discretion
19 pursuant to United States v. Booker, 543 U.S. 220 (2005).

20 Defendant also understands that should the sentencing judge decide not to
21 accept the parties' recommendations, that decision is not a basis for withdrawing from
22 this Plea Agreement or a basis for withdrawing this plea of guilty.

23 3. Waiver of Constitutional Rights:

24 Defendant understands that by entering this plea of guilty, Defendant is
25 knowingly and voluntarily waiving certain constitutional rights, including:

- 26 (a). The right to a jury trial;
- 27 (b). The right to see, hear and question the witnesses;
- 28 (c). The right to remain silent at trial;

1 (d). The right to testify at trial; and

2 (e). The right to compel witnesses to testify.

3 While Defendant is waiving certain constitutional rights, Defendant understands
4 Defendant retains the right to be assisted through the sentencing and any direct appeal
5 of the conviction and sentence by an attorney, who will be appointed at no cost if
6 Defendant cannot afford to hire an attorney. Defendant also acknowledges that any
7 pretrial motions currently pending before the Court are waived.

8 4. Elements of the Offense:

9 The United States and Defendant agree that in order to convict Defendant of
10 Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2),
11 the United States would have to prove beyond a reasonable doubt the following
12 elements:

13 *First*, on or about November 5, 2021, in the Eastern District of
14 Washington, Defendant, VINCENT NICHOLAS PETRUSHKIN,
15 knowingly possessed a firearm, to wit: a Glock Model 17 9mm
16 caliber semi-automatic handgun bearing serial number BHBR218;

17 *Second*, the firearm had been shipped or transported from one state to
18 another;

19 *Third*, at the time Defendant possessed the firearm, Defendant had been
20 previously convicted of a crime punishable by imprisonment for a term
21 exceeding one year; and

22 *Fourth*, at the time Defendant possessed the firearm, Defendant knew he
23 had been convicted of a crime punishable by imprisonment for a term
24 exceeding one year.

25 5. Statement of Facts:

26 The United States and Defendant stipulate and agree that the United States
27 could prove these facts beyond a reasonable doubt at trial; these facts are accurate; and
28 these facts constitute an adequate factual basis for Defendant, VINCENT NICHOLAS

1 PETRUSHKIN's, guilty plea. This statement of facts does not preclude either party
2 from presenting and arguing, for sentencing purposes, additional facts which are
3 relevant to the guideline computation or sentencing, unless otherwise prohibited in
4 this Plea Agreement. The parties further agree and stipulate that this factual basis is
5 simply a summary to support the plea, it does not contain all facts which could be
6 proven by the United States.

7 In early November 2021, a Bureau of Alcohol, Tobacco, Firearms, and
8 Explosives ("ATF") Confidential Informant ("CI") advised that co-defendant Randy
9 Coy James HOLMES (aka "Whispers"), a documented Sureno gang member, was
10 looking to obtain a firearm, as he (HOLMES) planned to conduct strong-arm
11 robberies in the near future. The CI arranged for HOLMES to contact an undercover
12 ATF agent to arrange for HOLMES to purchase a firearm from the undercover ATF
13 agent. On November 5, 2021, HOLMES and the undercover ATF agent agreed to
14 meet at the Motel 6 parking lot in Spokane, Washington.

15 As scheduled, HOLMES arrived at the Motel 6 driving a Dodge Charger.
16 Defendant, VINCENT NICHOLAS PETRUSHKIN (aka "Vegas"), also a Sureno
17 gang member, was a passenger in the vehicle, along with another male, later identified
18 as William BURNS (aka "Serio"), also a Sureno gang member. HOLMES exited the
19 Charger and entered the undercover agent's vehicle. After HOLMES entered the
20 vehicle, he pulled out a firearm, later identified as a Glock Model 17 9mm semi-
21 automatic handgun bearing serial number BHBR218, pointed it at the undercover
22 agent's head, and demanded the firearm the undercover agent was going to sell him.
23 The undercover agent advised HOLMES the firearm was in the back of the
24 undercover agent's vehicle. HOLMES then exited the vehicle and ran around to the
25 back of the vehicle to obtain the firearm. When he did so, the undercover agent exited
26 the vehicle and told HOLMES to drop the gun. HOLMES then utilized the Glock
27 Model 17 9mm firearm to shoot at the undercover agent multiple times.
28

1 After Defendant was identified as an occupant in the Dodge Charger, he was
2 interviewed. In a post-*Miranda* statement, Defendant advised he recently met
3 HOLMES at a local halfway house as they were both on court supervision. Defendant
4 advised that on November 5, 2021, he and HOLMES were riding around in the Dodge
5 Charger and met an individual who identified himself as "Serio" (a known gang
6 moniker for BURNS) at a local convenience store in Spokane, Washington.
7 HOLMES told "Serio" they were going to go meet someone and HOLMES intended
8 to rob that individual. "Serio" agreed to accompany them. When the three men
9 arrived at the Motel 6 in the Dodge Charger, "Serio" produced a handgun, later
10 identified as the Glock Model 17 9mm handgun and provided it to HOLMES to use a
11 protection during the transaction. Defendant asked HOLMES to view the firearm.
12 HOLMES provided the firearm to Defendant. Defendant handled and inspected the
13 firearm, and then returned the firearm to HOLMES. HOLMES then exited the
14 vehicle. Defendant advised that he heard shots, and then fled the area in the Dodge
15 Charger with "Serio".

16 Defendant stipulates and agrees that he possessed the Glock Model 17 9mm
17 semi-automatic handgun bearing serial number BHBR218 and that prior to November
18 5, 2021, he been convicted of a crime punishable by imprisonment for a term
19 exceeding one year, and he was aware of that fact. Defendant also stipulates and
20 agrees that prior to his possession of the firearm in the Eastern District of Washington,
21 it had been shipped in interstate or foreign commerce.

22 6. The United States Agrees Not to File New Charges:

23 The United States Attorney's Office for the Eastern District of Washington
24 agrees not to bring any additional charges against Defendant based upon information
25 in its possession at the time of this Plea Agreement and arising out of Defendant's
26 conduct involving illegal activity charged in this Indictment, unless Defendant
27 breaches this Plea Agreement.
28

1 7. United States Sentencing Guideline Calculations:

2 Defendant understands and acknowledges that the United States Sentencing
3 Guidelines (hereinafter "USSG") are applicable to this case and that the Court will
4 determine Defendant's applicable sentencing guideline range at the time of
5 sentencing. Defendant also understands that pursuant to United States v. Booker, 543
6 U.S. 220 (2005), the Court is required to consider the factors set forth in 18 U.S.C. §
7 3553(a), and to impose a reasonable sentence.

8 (a). *Base Offense Level:*

9 The United States and Defendant agree to recommend to the Court the Base
10 Offense Level is 14 as Defendant was a prohibited person at the time he committed
11 the instant offense. *See* USSG §2K2.1(a)(6), n.3.

12 (b). *Specific Offense Characteristics:*

13 The United States and Defendant agree to recommend a 4-level increase as
14 Defendant possessed or transferred the firearm with knowledge, intent, or reason to
15 believe that it would be used or possessed in connection with another felony offense.
16 *See* USSG §2K2.1(b)(6), n. 14.

17 (c). *Role Adjustments:*

18 The United States and Defendant agree to recommend there be no role
19 adjustment. *See* USSG §§ 3B1.1; 3B1.2

20 (d). *Acceptance of Responsibility:*

21 If Defendant pleads guilty and demonstrates a recognition and an affirmative
22 acceptance of personal responsibility for the criminal conduct; provides complete and
23 accurate information during the sentencing process; does not commit any obstructive
24 conduct; accepts this Plea Agreement; and enters a plea of guilty no later than the next
25 Pre-Trial Conference date; the United States will move for a three (3)-level downward
26 adjustment in the offense level for Defendant's timely acceptance of responsibility,
27 pursuant to USSG §3E1.1(a) and (b).
28

1 Defendant and the United States agree that the United States may at its option
2 and upon written notice to Defendant, not recommend a three (3)-level reduction for
3 acceptance of responsibility if, prior to the imposition of sentence, Defendant is
4 charged or convicted of any criminal offense whatsoever or if Defendant tests positive
5 for any controlled substance.

6 (e). *Criminal History:*

7 The United States and Defendant have made no agreement and make no
8 representations as to Defendant's Criminal History Category, which shall be
9 determined by the Court at sentencing after the Presentence Investigation Report is
10 completed.

11 8. Length of Incarceration:

12 The United States agrees to recommend a term of incarceration at the low-end
13 of the advisory guideline range. Defendant is free to recommend any legal sentence.

14 9. Criminal Fine:

15 The United States and Defendant agree to recommend the Court impose no
16 criminal fine.

17 10. Judicial Forfeiture:

18 Defendant agrees to voluntarily forfeit any and all right, title and interest he has
19 in the following listed assets in favor of the United States, including, but not limited
20 to:

21 a Glock Model 17 9mm semi-automatic handgun bearing serial
22 number BHBR218

23 Defendant acknowledges that the firearm covered by this Agreement is subject
24 to forfeiture as property facilitating or involved in illegal conduct in violation of 18
25 U.S.C. §§ 922(g)(1), 924(a)(2), Felon in Possession of a Firearm, and is therefore
26 forfeitable to the United States pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C.
27 § 2461(c).
28

1 Defendant agrees to take all steps as requested by the United States to pass clear
2 title to the assets to the United States and to testify truthfully in any forfeiture
3 proceeding.

4 Defendant agrees to hold all law enforcement and the United States, its agents,
5 and its employees harmless from any claims whatsoever arising in connection with the
6 seizure and forfeiture of any asset(s) covered by this agreement. Defendant consents
7 to the forfeiture and disposal of assets without further notice.

8 Defendant further agrees to waive all constitutional, equitable and statutory
9 challenges in any manner (including direct appeal, habeas corpus, or any other means)
10 to any forfeiture carried out in accordance with this Plea Agreement on any grounds,
11 including that the forfeiture constitutes an excessive fine or punishment. Defendant
12 knowingly and voluntarily waives his right to a jury trial on the forfeiture of the
13 asset(s). Defendant waives oral pronouncement of forfeiture at the time of sentencing,
14 and any defects that may pertain to the forfeiture.

15 11. Supervised Release:

16 The United States and Defendant agree to jointly recommend that the Court
17 impose a three (3) year term of supervised release, to include the following special
18 conditions, in addition to the standard conditions of supervised release:

19 (a). that Defendant participate and complete such drug testing and drug
20 treatment programs as the Probation Officer directs, but not to exceed six
21 non-treatment drug tests per month during the imposed term of
22 supervised release; and

23 (b). that Defendant's person, residence, office, vehicle, and belongings
24 are subject to search at the direction of the Probation Officer.

25 12. Mandatory Special Penalty Assessment:

26 Defendant agrees to pay the \$100 mandatory special penalty assessment to the
27 Clerk of Court for the Eastern District of Washington, at or before sentencing,
28

1 pursuant to 18 U.S.C. § 3013, and shall provide a receipt from the Clerk to the United
2 States before sentencing as proof of this payment.

3 13. Payments While Incarcerated:

4 If Defendant lacks the financial resources to pay the monetary obligations
5 imposed by the Court, Defendant agrees to earn the money to pay toward these
6 obligations by participating in the Bureau of Prisons' Inmate Financial Responsibility
7 Program if the Court sentences Defendant to a term of incarceration.

8 14. Additional Violations of Law Can Void Agreement:

9 Defendant and the United States agree that the United States may at its option
10 and upon written notice to Defendant, withdraw from this Plea Agreement or modify
11 its recommendation for sentence if, prior to the imposition of sentence, Defendant is
12 charged or convicted of any criminal offense whatsoever or if Defendant tests positive
13 for any controlled substance.

14 15. Waiver of Appeal and Collateral Attack Rights:

15 In return for the concessions that the United States has made in this Plea
16 Agreement, Defendant agrees to waive his right to appeal the conviction and the
17 sentence if the Court sentences Defendant to a term of incarceration of 12 months and
18 1 day or less; and a term of supervised release of 3 years or less. If the Court
19 sentences Defendant to a term of incarceration in excess of 12 months and 1 day and a
20 term of supervised release of more than 3 years, Defendant may appeal only the
21 reasonableness of his sentence.

22 Defendant further expressly waives his right to file any post-conviction motion
23 attacking his conviction and sentencing, including a motion pursuant to 28 U.S.C. §
24 2255, except one based upon ineffective assistance of counsel based on information
25 not known by Defendant, and which, in the exercise of due diligence, could not be
26 known by Defendant by the time the Court imposes sentence.

27 Should Defendant successfully move to withdraw from this Plea Agreement or
28 should Defendant's conviction on the Indictment be dismissed, set aside, vacated, or

1 reversed, this Plea Agreement shall become null and void; the United States may
2 prosecute Defendant on all available charges involving or arising from his possession
3 of firearms, and/or ammunition. Nothing in this Plea Agreement shall preclude the
4 United States from opposing any post-conviction motion for a reduction of sentence
5 or other attack of the conviction or sentence, including, but not limited to, proceedings
6 pursuant to 28 U.S.C. § 2255.

7 16. Integration Clause:

8 The United States and Defendant acknowledge that this document constitutes
9 the entire Plea Agreement between the United States and Defendant, and no other
10 promises, agreements, or conditions exist between the United States and Defendant
11 concerning the resolution of the case. This Plea Agreement is binding only upon the
12 United States Attorney's Office for the Eastern District of Washington, and cannot
13 bind other federal, state or local authorities. The United States and Defendant agree
14 that this agreement cannot be modified except in a writing that is signed by the United
15 States and Defendant.

16 Approvals and Signatures

17 Agreed and submitted on behalf of the United States Attorney's Office for the
18 Eastern District of Washington.

19
20 Vanessa R. Waldref
21 United States Attorney

22 

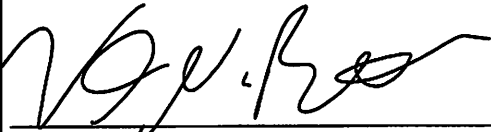
03/29/2022

23 Caitlin Baunsgard
24 Assistant U.S. Attorney

Date

25 I have read this Plea Agreement and have carefully reviewed and discussed
26 every part of the agreement with my attorney. I understand and voluntarily enter into
27 this. Furthermore, I have consulted with my attorney about my rights, I understand
28

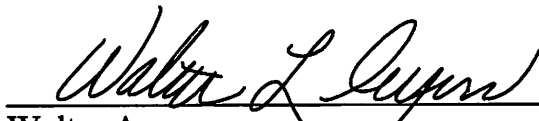
1 those rights, and I am satisfied with the representation of my attorney in this case. No
2 other promises or inducements have been made to me, other than those contained in
3 this Plea Agreement, and no one has threatened or forced me in any way to enter into
4 this Plea Agreement. I am agreeing to plead guilty because I am guilty.

5 

6
7 VINCENT NICHOLAS PETRUSHKIN
8 Defendant

03/24/22
Date

9
10 I have read the Plea Agreement and have discussed the contents of the Plea
11 Agreement with Defendant. The Plea Agreement accurately and completely sets forth
12 the entirety of the agreement between the parties. I concur in Defendant's decision to
13 plead guilty as set forth in the Plea Agreement. There is no legal reason why the
14 Court should not accept Defendant's plea of guilty.

15
16 
17 Walter Ayers
18 Attorney for the Defendant

Mar 24, 2022
Date